

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC, and Bernard L. Madoff,

Plaintiff,

v.

ABN AMRO BANK N.V. (presently known
as THE ROYAL BANK OF SCOTLAND,
N.V.),

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-05354 (SMB)

**STIPULATION AND ORDER CONCERNING THE TRUSTEE'S
MOTION FOR LEAVE TO FILE AN AMENDED COMPLAINT**

Irving H. Picard, Trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC and the estate of Bernard L. Madoff (the "Trustee"), and defendant ABN Amro Bank N.V. (presently known as the Royal Bank of Scotland, N.V.) (the "Defendant," and together with the Trustee, the "Parties"), by and through their respective undersigned counsel, agree as follows:

WHEREAS, on August 28, 2014, the Trustee filed an Omnibus Motion Seeking Leave to Replead Pursuant to Fed. R. Civ. P. 15(a) and Court Order Authorizing Limited Discovery

Pursuant to Fed. R. Civ. P. 26(d)(1) (the “Trustee’s Omnibus Motion”) (ECF Nos. 69-71). The Trustee’s Omnibus Motion sought, among other things, limited discovery relevant to good faith under either 11 U.S.C. § 548(c) or 11 U.S.C. § 550(b) (the “Limited Discovery Issue”) from the defendants, as well as leave to file an amended complaint against the defendants (the “Leave to Replead Issue”);

WHEREAS, on June 18, 2018, the Court denied the branch of the Trustee’s Omnibus Motion as to the Limited Discovery Issue, and acknowledged that the parties previously agreed that further briefing and proceedings on the Leave to Replead Issue would be deferred until after the Court entered a decision on the Limited Discovery Issue (ECF No. 168);

WHEREAS, separately, on November 22, 2016, the Bankruptcy Court issued a Memorandum Decision Regarding Claims to Recover Foreign Subsequent Transfers (the “Memorandum Decision”) that denied the Extraterritoriality Motion to Dismiss as to the Defendant in this adversary proceeding, and granted the Trustee leave to amend the complaint relating to the extraterritoriality issue. *See Securities Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-01789 (SMB), ECF No. 14495;

WHEREAS, on August 14, 2018, the Parties entered into a Tolling Agreement providing for the dismissal without prejudice of the Trustee’s claim seeking to recover approximately \$74.6 million in subsequent transfers of BLMIS customer property that the Defendant received from Rye Select Broad Market XL Portfolio Limited (the “RBS-Rye XL Portfolio Claim”), subject to the right of the Trustee to reinstate the RBS-Rye XL Portfolio Claim by filing an amended complaint in accordance with the terms of the Tolling Agreement;

WHEREAS, on August 17, 2018, the Parties stipulated to voluntarily dismiss without prejudice the RBS-Rye XL Portfolio Claim against the Defendant, subject to the right of the

Trustee to reinstate the RBS-Rye XL Portfolio Claim by filing an amended complaint in accordance with the terms of the Tolling Agreement (ECF No. 171);

WHEREAS, the Trustee intends to file a motion for leave to file an amended complaint with regard to the Leave to Replead Issue and said amended complaint will incorporate the amendments authorized by the Memorandum Decision and the Tolling Agreement; and

WHEREAS, the Parties have agreed to a schedule for litigation of the Trustee's motion for leave to file an amended complaint addressing the Leave to Replead Issue.

IT IS HEREBY STIPULATED AND AGREED that:

1. The Trustee shall file his motion for leave to file an amended complaint on or before June 10, 2019. The Defendant shall file its response to the motion within sixty (60) days after it is filed. The Trustee shall file his reply, if any, within thirty (30) days of the Defendant's response.

2. This Stipulation is so ordered without prejudice to any future stipulations for extensions of time.

3. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

[Remainder of page intentionally left blank.]

Dated: April 19, 2019
New York, New York

/s/ Patrick T. Campbell

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Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

/s/ Michael Feldberg

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*Attorneys for Defendant ABN AMRO Bank N.V.
(presently known as The Royal Bank of Scotland,
N.V.)*

SO ORDERED: April 19th, 2019

/s/ STUART M. BERNSTEIN

**Hon. Stuart M. Bernstein
United States Bankruptcy Judge**